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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,938	08/21/2001	Pathinaja A. Gunatillake	1207.008US1	7489

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EXAMINER

SERGEANT, RABON A

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Art Unit: 1711

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 20, 2004 has been entered.

2. Claim 68 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since two compounds that satisfy formula (I) have been set forth within claim 64, it is unclear which of the two compounds is being referred to by the language, "the compound of formula (I)", within claim 68.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1711

4. Claims 63-79, 81-108, 111, 112, and 117-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szycher et al. ('627) or WO 98/13405 or JP 4-248826, each in view of Li et al. ('724) and Ohtaki et al. ('085).

The primary references disclose the production of polysiloxane-polyurethane (urea) polymers having enhanced biocompatibility wherein active hydrogen group containing polysiloxanes are combined with additional active hydrogen compounds, such as polyethers or polycarbonates, and the resulting mixtures are reacted with polyisocyanates to yield polymers having enhanced characteristics. It is noted that Szycher et al. and JP 4-248826 disclose the use of hydroxyl functional polysiloxanes, as well as, amine functional polysiloxanes.

5. While none of the primary references disclose the specific use of an amine functional siloxane as a chain extender and WO 98/13405 fails to disclose the use of an amine functional siloxane soft segment, Li et al. specifically teach the use of amine functional polysiloxane compounds, which overlap applicants' claimed soft segment and hard segment compounds, in the production of biocompatible polyureas and polyurethane ureas having improved physical and mechanical properties. Furthermore, Ohtaki et al. disclose the use of amino functional tetraorganodisiloxanes as modifying reactants within polyurethanes.

6. Therefore, since applicants' claimed amine functional polysiloxanes were known reaction constituents for polyurethaneurea and since they were known to bestow improved properties, including improved biocompatibility, to urethanes, it would have been *prima facie* obvious to utilize them as reactants, such as chain extenders and/or soft segment reactants, within the compositions of the primary references, so as to arrive at the instant invention.

Art Unit: 1711

7. Applicants' response of August 20, 2004 has been considered. Despite applicants' arguments, the position is maintained for the aforementioned reasons that the secondary references serve to render obvious the use of compounds that correspond to applicants' claimed hard and soft segment compounds as reactants for polyurethaneureas having improved properties. Applicants have failed to establish that the respective use of the claimed soft segment reactants and chain extenders yield an unexpected result, relative to the teachings of the relied upon references. Applicants' reference to the macrodiol compound of formula (I) within page 16 of the response is not understood, because the claims do not embody such a compound.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent  
September 13, 2004

  
RABON SERGENT  
PRIMARY EXAMINER